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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

JUDY PHILLIPS,

Plaintiff,

vs.

**ALBERTSONS, LLC and
JOSEPH OLBRYNS,**

Defendants.

Cause Number CV-22-

**COMPLAINT and
DEMAND FOR JURY TRIAL**

COMES NOW plaintiff Judy Phillips, through counsel Geoffrey C. Angel,
and for her claims for relief alleges as follows:

NATURE OF ACTION

1. This action is brought by Judy Phillips against Albertsons, LLC and Joseph Olbrys for negligence in the operation of its motor vehicle.
2. Albertsons, LLC, at all relevant times herein, was incorporated and has its principle place of business in the State of Idaho.
3. Joseph Olbrys, at all relevant times herein, was a resident, domicile and citizen of the State of Utah.
4. Judy Phillips is a resident, domicile and citizen of the State of Montana.

- 1 5. On June 8, 2019 Judy Phillips was driving Southbound on United
2 States Highway 287 South of Ennis, Montana when an Albertons, LLC,
3 double semi tractor-trailer attempted to pass her on the left and crashed
4 into her vehicle from behind.
5
- 6 6. The driver, Joseph Olbrys, was traveling along a straight section of
7 United States Highway 287, with unobstructed views, traveling at the
8 posted speed limit of 65 m.p.h. when he attempted to pass Mrs. Phillips
9 who had slowed to make a left hand turn.
10
- 11 7. Mrs. Phillips was travel at less than 5 m.p.h. approaching a T-
12 intersection with a road to her left and a field to her right.
13
- 14 8. Mr. Olbrys accelerated as he approached Mrs. Phillips and turned into
15 her path of travel striking her vehicle on the driver's rear end and rear
16 quarter panel causing her vehicle to spin counterclockwise into the
17 ditch.
18
- 19 9. The Montana Highway Patrol summoned Emergency Medical Services
20 who transported Mrs. Phillips to the Madison Valley Medical Center
21 for evaluation and treatment.
22
- 23 10. Mrs. Phillips injuries were determined to be non-life threatening so she
24 was evaluated and released.
25
- 26 11. Mrs. Phillips vehicle, a 2019 Cadillac X4 Sport Utility Vehicle with
27 1,900 miles, was a total loss.
28

1 12. The Montana Highway Patrol investigated the crash and determined the
2 Mr. Olbrys' semi tractor-trailer attempted to overtake and pass
3 Mrs. Phillips when it was unsafe to do so at an intersection with a
4 roadway on the left.

5
6 13. Mrs. Phillips was injured in the accident and endured pain and
7 suffering, grief, anxiety, stress and a loss of course of life.

8
9 14. The amount of Mrs. Phillips' damages arising out of the accident at
10 issue, including the costs of recovery, exceed \$75,000.

11
12 **APPLICABLE STATE LAW**

13 15. Plaintiff's claims are brought pursuant to Montana's statutory and
14 common law concerning operation of a motor vehicle, negligence and
15 punitive damages.

16
17 **APPLICABLE FEDERAL LAW**

18 16. Jurisdiction is proper in Federal District Court under 28 U.S.C. § 1332
19 based on complete diversity of citizenship and the amount in
20 controversy exceeds \$75,000. The state law claims are properly
21 included under supplemental jurisdiction 28 U.S.C. § 1367.

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23 17. Venue is proper in the Butte Division of the Federal District of
24 Montana because plaintiff is a citizen of the state of Montana, the
25 accident occurred in Madison County, Montana and defendants are
26 citizens of are incorporated and have their principal places of business
27 in another state.
28

COUNT-1-NEGLIGENCE PER SE

18. Plaintiff realleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein.

19. Defendant violated Section 61-8-302, Montana Code Annotated, by driving his vehicle in a careless manner.

20. Defendant violated Section 61-8-303(3), Montana Code Annotated, with his failure to operate his vehicle in a safe and prudent manner and his failure to maintain a proper lookout for other traffic.

21. Defendant violated Section 61-8-321, Montana Code Annotated, by driving on the left side of the roadway when it was unsafe to do so.

22. Defendant violated Section 61-8-325, Montana Code Annotated, by overtaking on the left within 100 feet of an intersection.

23. Defendant is guilty of actual malice as defined in MONT. CODE ANN. §§ 27-1-220 and 221 in that Defendant had actual knowledge that its failure to comply with the provisions of MONT. CODE ANN. § 33-18-201 would create a high probability of injury to Plaintiff and yet continued to act deliberately in conscious or intentional disregard of that high probability of injury to Plaintiff.

1 **WHEREFORE**, the plaintiff pray for judgment as follows:

- 2 1. An amount for all damages which include medical expenses, a sum for
3 grief, anxiety, stress and loss of course of life.
4 2. An amount to punish Albertsons, LLC and Mr. Olbrysfor his malicious
5 conduct and to warn other semi-truck drivers against similar
6 misconduct;
7 3. Costs, and;
8 4. Such other and further relief as this Court deems just and proper in this
9 cause.

10 **DEMAND FOR TRIAL BY JURY**

11 Plaintiff demands trial by jury on all issues of this action.
12

13 DATED this 24th day of February 2022

14 ANGEL LAW FIRM
15

16 /s/ Geoffrey C. Angel
17 Geoffrey C. Angel
18 ANGEL LAW FIRM
19 Attorney for Plaintiff
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